THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.8746 of 2007

Date 3-7-2007

Between:
The Director General of Police,
Andhra Pradesh, Hyderabad and others.

……PETITIONERS

AND

K. Johnson

……..RESPONDENT

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.8746 of 2007

ORDER: (per Smt. T. Meena Kumari,J)

This writ petition is filed by the department aggrieved by the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A. No.786 of 2001, dated 15.12.2005.

The respondent herein is a retired Police Constable of Medak District. While so, the second petitioner through order dated 9.6.2000 has sanctioned invalid pension and gratuity to the respondent. Subsequently, the 1st petitioner cancelled the same under Rule 45(2) of the said Pension Rules, 1980 (for short 'the Rules') on the ground that the respondent is not entitled for the same. Aggrieved, the respondent filed O.A. No.786 of 2001 before the Tribunal. The Tribunal, by the order impugned in this writ petition, allowed the said O.A. and set aside the impugned order of the first petitioner. Hence, the Department filed the present writ petition.

Learned Government Pleader for Services-I appearing on behalf of the department would contend that the Tribunal erred in observing that Rule 39 of the Rules does not prescribe any minimum qualifying service to a person who is compulsorily retired from service to have the grant of pension. The Tribunal also erred in observing that Sub-Rule (2)of Rule 45 of the Rules has no application to the facts of the case on hand. He, therefore, prayed that the writ petition be allowed and the order impugned be set aside.

There is no dispute about the fact that the services of the respondent have been terminated by way of compulsory retirement. The respondent was sanctioned invalid pension and subsequently, the same

was cancelled on the ground that the respondent has not put in the minimum qualifying service. Admittedly, Rule 39 of the A.P. Revised Pension Rules, does not prescribe any minimum qualifying service to a person who is compulsorily retired from service to have the grant of pension. In the circumstances, the 1st petitioner was not justified in cancelling the same.

The Tribunal, on a careful consideration of Rule 39 vis-à-vis Rule 45(2) of the A.P. Revised pension Rules, clearly held that the Rule 39 does not prescribe any minimum qualifying service to be put in by an applicant and on that ground, it allowed the O.A. and set aside the order of cancellation passed by the 1st petitioner.

In the circumstances, we do not find any illegality or irregularity in the order of the Tribunal warranting interference.

The writ petition fails and the same is accordingly dismissed. No costs.

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T. MEENA KUMARI,J

DATE: 3rd July, 2007

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G. CHANDRAIAH,J

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